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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,770	03/29/2004	Joseph S. Ferris	FRJ-2CIP	9511
20808	7590	12/29/2005		
BROWN & MICHAELS, PC 400 M & T BANK BUILDING 118 NORTH TIOGA ST ITHACA, NY 14850			EXAMINER TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,770

Applicant(s)

FERRIS, JOSEPH S.

Examiner

Alicia M. Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-9, 11, 14, 15, 18, 19, 22-26 rejected under 35 U.S.C. 102(b) as being anticipated by Ogasawara et al. 5,367,864.

Regarding claims 1, 4-9, 11, 14, 15, 18, 19, Ogasawara discloses a lawn mower comprising:

- A chassis (3) with drive wheels (2)
- A ground-following cutter deck (100)
- Rolling means (1) attached to the cutter deck (100)
- The rolling means (1) and drive wheels (2) support the chassis (3), as per claim 1; and
- The drive wheels (2) powered together, as per claim 4; and
- A suspension system (15), as per claim 5; and
- The suspension system (15) including a coil spring means (15a) between the chassis (3) and the drive wheels (2), as per claims 6-9; and
- The drive wheels (2) are vertically movable with each other, as per claim 11; and
- Wherein the rolling means (1) functions as a steering means, as per claim 14; and
- The cutter deck (100) and chassis (3) being independently responsive of each other to ground contours, as per claim 15; and

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- Means (11) for adjusting the height of the cutter deck (100), as per claim 18; and
- Means (9) for lifting the cutter deck (100), as per claim 19.

3. Regarding claim 2, Ogasawara discloses a lawn mower comprising:

- A chassis (3) with drive wheels (2)
- A ground-following cutter deck (100) attached to the chassis (3)
- Rolling means (1) attached to the cutter deck (100) comprising wheels
- The chassis (3) and cutter deck (100) are supported by the rolling means (1) and the drive wheels (2).

4. Regarding claims 22-26, Ogasawara discloses a lawn mower comprising:

- A chassis (50) with drive wheels (2)
- A ground following cutter deck assembly comprising:
 - A cutter deck frame (3) attached to the chassis (50) by a spring suspension (15)
 - A cutter deck (100) coupled to the cutter deck frame (3)
- Wheels (1) are coupled to the cutter deck frame (3) and support the chassis (50)
- The suspension comprises a parallel linkage (52) coupled between the chassis (50) and the cutter deck frame (3).

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5. Claims 1, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon 5,946,893.

Gordon discloses a lawn mower comprising:

- A chassis (20) with drive wheels (30)
- A ground-following cutter deck (24) acting as an axle and capable of moving vertically of the chassis (20)
- Rolling means (32) attached to the cutter deck (24)
- The rolling means (32) and drive wheels (30) support the chassis (20), as per claim 1; and
- The drive wheels (30) being vertically movable independently of each other, as per claim 10.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara in view of Peter.

The device is disclosed as applied to claim 1 above. However, Ogasawara fails to disclose wherein the drive wheels are independently powered.

Peter discloses a similar mower including drive wheels (23) independently powered from one another.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the independently driven drive wheels of Peter on the mower of Ogasawara in order to allow steering by speed allocation to the wheels.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara in view of Gordon 6,170,242.

The device is disclosed as applied above. However, Ogasawara fails to disclose a means for adjustably precompressing the spring means.

Gordon discloses a similar mower including means (104, 106) for adjusting a pre-compressed spring (56).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the spring of Gordon on the mower of Ogasawara in order to lessen the change in elevation when an operator mounts the mower.

Response to Arguments

9. In response to the applicant's arguments regarding Ogasawara, the examiner has corrected the rejection so that the rolling means are now wheels (1). The claims lack any structure, specifically regarding the connection between the cutter deck and rolling means, that would preclude the wheels (1) from serving as the rolling means.

In response to the applicant's arguments regarding the Gordon rejection, the wheels (32) of Gordon are, in fact, attached to the cutting deck. It is irrelevant that the connection is indirect since the claims lack any structure that clearly defines the connection over that of Gordon.

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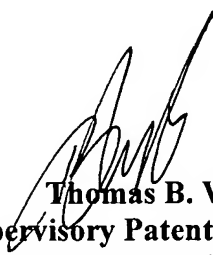
Applicant's arguments with respect to claims 2 and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
December 13, 2005